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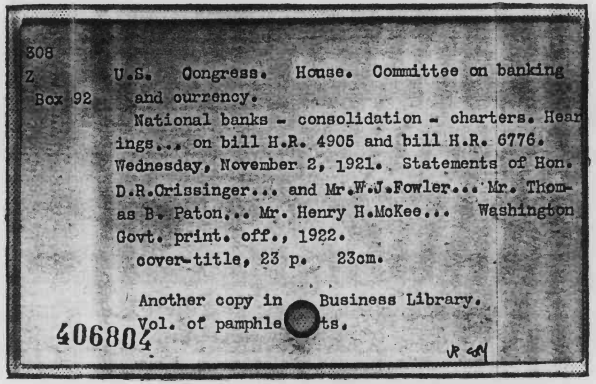

National Banks—Consolidation—Charters

HEARINGS

BEFORE THE

COMMITTEE ON BANKING AND CURRENCY OF THE HOUSE OF REPRESENTATIVES

ON

BILL H. R. 4905

AND

BILL H. R. 6776

WEDNESDAY, NOVEMBER 2, 1921

STATEMENTS OF

HON. D. R. CRISSINGER, Comptroller of the Currency, and MR. W. J. FOWLER, Deputy Comptroller

MR. THOMAS B. PATON, General Counsel, American Bankers Association

MR. HENRY H. McKEE, Chairman, Committee on Federal Legislation, National Bank Division, American Bankers Association

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COMMITTEE ON BANKING AND CURRENCY.

HOUSE OF REPRESENTATIVES.

SIXTY-SEVENTH CONGRESS, FIRST SESSION.

LOUIS T. McFADDEN, Pennsylvania, *Chairman*.

PORTER H. DALE, Vermont.
EDWARD J. KING, Illinois.
FRANK D. SCOTT, Michigan.
ADOLPHUS P. NELSON, Wisconsin.
JAMES G. STRONG, Kansas.
LEONARD S. ECHOLS, West Virginia.
EDWARD S. BROOKS, Pennsylvania.
ROBERT LUCE, Massachussetts.
CLARENCE MacGREGOR, New York.
JAMES W. DUNBAR, Indiana.
LESTER D. VOLK, New York.
T. FRANK APPLEBY, New Jersey.
HENRY F. LAWRENCE, Missouri.
E. HART FENN, Connecticut.
OTIS WINGO, Arkansas.
HENRY B. STEAGALL, Alabama.
CHARLES H. BRAND, Georgia.
WILLIAM F. STEVENSON, South Carolina.
EUGENE BLACK, Texas.
T. ALAN GOLDSBOROUGH, Maryland.

PHILIP G. THOMPSON, *Clerk*.

NATIONAL BANKS—CONSOLIDATION—CHARTERS.

COMMITTEE ON BANKING AND CURRENCY,
HOUSE OF REPRESENTATIVES,
Wednesday, November 2, 1921.

The committee met at 10.30 o'clock a. m., Hon. Louis T. McFadden (chairman) presiding.

STATEMENT OF HON. D. R. CRISSINGER, COMPTROLLER OF THE CURRENCY, ACCOMPANIED BY MR. WILLIS J. FOWLER, DEPUTY COMPTROLLER.

The CHAIRMAN. At the request of the committee, when we adjourned the other day I invited the Comptroller of the Currency to come up here and explain the two bills we had under consideration, namely, H. R. 4905 and H. R. 6776, and Mr. Crissinger and the deputy comptroller, Mr. Fowler, are here this morning. Suppose we first take up for consideration H. R. 6776, which is the bill providing for a third extension of charters of national banks.

Now, Mr. Comptroller, there were some questions that several of the members the other day wanted to ask in regard to this bill. The first questions were: How does this change the present law? Are there any proposed additions to this bill, and if so, what are they?

Mr. STRONG. I understood there was to be a statement furnished showing the changes made by this bill in existing law.

The CHAIRMAN. The presence of the comptroller here, I think, answers that.

Mr. CRISSINGER. This letter which I have here is what the office has worked out in reference to changes, and I think you would perhaps get it better from this letter which has been drafted.

The CHAIRMAN. Perhaps I had better read this letter from the comptroller covering the point raised by Mr. Strong, and I will ask that it be placed in the record here for the information of the members.

Mr. WINGO. May I suggest, Mr. Chairman, that you simply insert the whole letter in the record right at the beginning of the hearing, and I would not take the time to read it, but just take up the first change and read what the letter says about that, and if there are no questions, we can take up the next change and in that way save time. You could insert the whole letter in the record right now and then you could call attention to the first change and then explain it, and so on. I just suggest that in order to save time.

The CHAIRMAN. This letter indicates that the comptroller has taken H. R. 6776 and attempted to explain the different suggested amendments to the bill. I think perhaps I should read this letter because you already have the bill before you.

Mr. MacGREGOR. Where does the change come in the law? Is it in the national banking law?

Mr. WINGO. Yes.

The CHAIRMAN. It is in relation to the act of July 12, 1882, and the act of April 12, 1902.

Mr. WINGO. Most of it is a repetition of existing statutes, is it not?

Mr. CRISSINGER. Yes; most of it is a repetition. There are just a few little suggestions which we have to make.

The CHAIRMAN. Suppose I read the letter which I have here.

(The letter referred to follows:)

TREASURY DEPARTMENT,
COMPTROLLER OF THE CURRENCY,
Washington, October 31, 1921.

Hon. L. T. MCFADDEN,
House of Representatives.

MY DEAR CONGRESSMAN: I am returning H. R. 6776 with the suggestion that it be amended in the following particulars:

On page 2 strike out the following words in lines 12 and 13: "Sec. 2. That such amendment of said articles of association shall be authorized by," and insert the following: "Sec. 2. That such amendment of said articles of association may be authorized either by the consent in writing of shareholders owning not less than two-thirds of the capital stock of said association or by."

Strike out all of line 20, on page 2, and insert the following in lieu thereof: "The board of directors shall cause such consent of said shareholders or such resolution adopted by said shareholders to be certified."

Insert the following after the word "section," in line 22, on page 5:

"*Provided*, That if for any reason either the directors of the bank or the dissenting shareholder fail to appoint the members of the appraisal committee, or the members so appointed by them fail to select a third member within a period of ninety days from the date of extension of the charter, the comptroller may on request of either the bank or the dissenting shareholders make an appraisal which shall be final and binding, the cost of such appraisal to be borne equally by the bank and by the dissenting shareholder."

The reasons for the suggested amendments are as follows:

Under the present law amendments to articles of association providing for extension of charter are signed by shareholders owning two-thirds of the capital stock of the association. The proposed law would provide for such amendment to be authorized by the vote of shareholders owning not less than two-thirds of the capital stock of the association; and it is believed that it would be more satisfactory to give the banks the alternative, i. e., to hold a meeting and adopt a resolution or to secure the signatures, whichever way may be deemed more advisable.

Under the present law a dissenting shareholder is permitted to withdraw at the time of expiration of charter, and provision is made for the appointment of an appraisal committee to fix the value of his stock. There is, however, no provision in the law compelling the appointment of such committee within any specified time, and there have been cases where one of the parties has delayed for a long time the selection of a member of the committee.

It is believed that the amendment suggested above should be incorporated in the law and thus authorize the comptroller to take action if either of the parties fail to appoint his member within the period of 90 days from the date of the extension of the charter.

I believe that the amendments suggested are desirable and should be incorporated in the bill.

Respectfully,

D. R. CRISSINGER, *Comptroller.*

Mr. STEVENSON. As I understand that letter, it contains suggested amendments to be made to this bill.

Mr. WINGO. Yes; we want to get that clear so that you may have the proposed changes in mind.

Mr. STEVENSON. What we want to get at now is the amendment that this bill makes to existing law, the act of 1882 and the act of 1902.

Mr. STRONG. The motion that prevailed at the last meeting was that there should be furnished the committee a statement showing the changes that this bill made in the existing law.

The CHAIRMAN. We will come to that in a moment.

Mr. STRONG. All right; because that makes it much easier for the committee to consider.

Mr. WINGO. Here is what I think the committee wanted, Mr. Chairman, and that is, to point out what changes other than the extension of 20 years are proposed, because you set out in extenso these different sections, which would not have been necessary unless you proposed to put some changes in the text other than the mere authorized extension of 20 years. The idea we had in mind was that it would possibly save a comparison with existing text, which we would be compelled to make in our offices, if the comptroller, or some one with him, was prepared to point out the identical changes and give the reasons for them. The probabilities are the committee would not have any controversy over any of them, but if there was any controversy we could settle the dispute as to any particular new proposal.

Mr. CRISSINGER. I do not think we had that in mind.

Mr. FOWLER. This is merely a general law to grant authority to any bank to extend its corporate existence at the expiration of its charter.

Mr. WINGO. What changes are there in existing law?

Mr. FOWLER. It merely makes reference to various acts under which banks have been incorporated, but the general line of the bill, as it stands, is a repetition of the act of 1882.

Mr. WINGO. Is there any difference between section 1 and the present existing law except the reference to act of 1882 and the act of 1902?

Mr. FOWLER. Practically none.

Mr. WINGO. You say "practically none," what are the changes, if you will pardon my insistence. The committee just wants to know what you propose to change. We probably will agree to it, but we want to know the proposed changes?

Mr. LAWRENCE. Is not the time changed from two years to one year prior to the date of the expiration of the existence of the corporation?

Mr. CRISSINGER. That is the only one I see except the reference to the various acts of Congress.

Mr. WINGO. Do you make any other change?

Mr. FOWLER. The second suggestion is with respect to giving stockholders the right to authorize extension either by written consent or vote.

Mr. WINGO. There is no other change in section 1. How about section 2?

Mr. STEVENSON. There is a change there. The bill reads:

"The corporate existence of which may have been extended under the act of July 12, 1882, or reextended under the act of April 12, 1902."

Of course, that is new.

Mr. WINGO. He referred to that, and he has changed the time from two years to one year. Of course, there would be no objection to that, I think. We come then to section 2. As I understand the letter of the comptroller read this morning, you are proposing an amendment to the bill in section 2?

Mr. CRISSINGER. That is right.

Mr. WINGO. Suppose you first tell us what change in existing law is made in section 2 as printed in the bill. Do you recall the changes that are made, or is that simply repetition of the present existing law?

Mr. FOWLER. That is a repetition of the law with the insertion of this provision giving the stockholders the right either to consent in writing or by vote.

Mr. WINGO. But that is a proposed amendment?

Mr. FOWLER. Yes.

Mr. WINGO. The text as printed in the bill is a repetition of section 2 of the act of 1902?

Mr. FOWLER. That is right.

Mr. WINGO. Then you propose a change in the alternative. What is that?

Mr. FOWLER. That the amendment may be authorized by written consent or by a two-thirds vote of the stockholders upon it.

Mr. WINGO. A vote at a shareholders' meeting?

Mr. FOWLER. Yes, sir.

Mr. WINGO. Does the language you propose there provide for a notice to the shareholders of the proposal to be voted on at the shareholders' meeting?

Mr. FOWLER. Yes, sir; that is provided for here, that due notice shall be given, 30 days' notice either by publication or by mail.

Mr. WINGO. That is notice of the meeting, but do you provide for notice of the proposal to be acted on at that meeting? Do you not think you should do that in order to meet some of the decisions of the courts with reference to organic changes in charters?

Mr. FOWLER. I think it would be well to insert that in the bill.

Mr. WINGO. The reason for that is, as I now recall, I think some States provide that an organic change can not be made at a stockholders' meeting unless they have specific notice to appear for that purpose at that meeting.

Mr. CRISSINGER. I think that ought to be put in.

Mr. WINGO. Then the courts have held that if they have notice and do not appear they are bound and can not say they did not have due notice?

Mr. FOWLER. In other words, the purpose of the meeting should be stated.

Mr. WINGO. Yes. In other words they should be notified that "the following proposal of extension" will be submitted to the stockholders at that date.

Mr. FOWLER. Yes.

The CHAIRMAN. You have that covered in a general way in the present act.

Mr. WINGO. No; you have provided for a notice, but you might send out a notice that the stockholders of the first national bank are called to meet at a certain day, and they might think that that was just a general meeting for the purpose of reelecting directors or some matter of that kind and would not attend. The point is that the notice should state that there will be a meeting of the stockholders of the first national bank in the directors' room at a certain date for the purpose of determining whether or not it will ask for an extension of charter.

The CHAIRMAN. And have that stated in the notice?

Mr. FOWLER. There is no objection to that.

Mr. WINGO. I am sure you can get up the wording for that.

Mr. MACGREGOR. What was the object in changing the word "consent" to "vote"?

Mr. FOWLER. Every other amendment of the national bank act requires a vote of the stockholders, for instance, a vote increasing or decreasing the capital stock. This is the only provision of law where a change in the articles of association of a bank is effected by written consent of shareholders.

Mr. WINGO. I think where they have specific notice and they appear at a stockholders' meeting and thrash the matter out, it is very much better, because so many controversies may otherwise arise, for instance, a stockholder may say that there were certain misrepresentations made or that he did not understand about it. You know, Mr. Comptroller, how those questions arise. If you have a stockholders' meeting and have a record of the minutes of the meeting, it is a great deal better. I do not like this idea of letting them go around and sign a petition just like getting up a petition to support a bill they have never read.

The CHAIRMAN. Have you any other questions, Mr. Wingo?

Mr. WINGO. I believe that is the only change in section 2. In section 3——

Mr. FENN. Before taking that up, is it not the purpose that all this business should be transacted at a regular called stockholders meeting?

Mr. FOWLER. The alternative is the written consent as the present law provides.

Mr. FENN. What do you mean by that. Why should it not be done at a regular called stockholders' meeting?

Mr. FOWLER. That was the purpose of the suggestion. The existing law provides that written consent shall be obtained, and we provide for a vote at a stockholders' meeting in addition.

Mr. FENN. Of course, it can be done by proxies, and the proxy would be on file and would show how they voted at the stockholders' meeting.

Mr. WINGO. I think the question of proxies is a matter for the stockholder himself to pass on.

Mr. FENN. It would have to be voted at a called meeting.

The CHAIRMAN. Mr. Fenn, this does not change the present law. It just provides another alternative, in addition to the present law, as to how this can be done.

Mr. FENN. What is the reason for the alternative?

The CHAIRMAN. This can be done at a stockholders' meeting or you can go ahead with the plan now provided by getting the written consent of the shareholders to the extension. Mr. Wingo's suggestion provides that if this is done at a stockholders' meeting the stockholders shall have proper and due notice of the business to be transacted at the meeting, so that there can be no snap judgment, and every shareholder will have due and proper notice.

Mr. WINGO. And if I may suggest to my friend, I did not stop to debate the wisdom of it. We are simply trying to find out what the changes suggested are. Personally I think it ought to be at a regularly called meeting for that purpose.

Mr. CRISSINGER. That is not the way it always has been.

Mr. WINGO. Then you will have a record and it can not be attacked collaterally. My idea was to now simply find out what the changes are that have been suggested. In section 3 have you any change from existing law, Mr. Fowler?

Mr. DUNBAR. Before we leave section 2, are we going to give the stockholders, in the bill to be presented, the right to consent, or can we vote that out now?

Mr. WINGO. Here is the idea I have in mind. I suppose the comptroller is in a hurry and it is late now, and my idea was to get at the changes, and then the committee afterwards can take up the bill section by section for consideration.

Mr. FOWLER. May I offer one further suggestion? The papers prepared by the comptroller are sent to the banks at least one year, and sometimes longer than that, in advance, in order that they may have them and act upon them, and all the banks whose charters will expire in the next year have had this notice of the present method of amending their articles in respect to extension of charter by written consent. Now, if we do not give them the alternative, we will have to issue additional papers and instructions, and there might be some delay in effecting the extensions. That

is an additional reason in favor of this alternative proposition of written consent or vote at a stockholders' meeting. If the bill does not authorize the alternative of written consent to extension, it is suggested that it shall take effect 90 or 120 days from date of Executive approval, the reason for this suggestion being that if the act goes into effect immediately some banks would not be able to extend, as they would not have time to give the required notice.

Mr. LUCE. Do you know, Mr. Comptroller, whether within the last 20 years there has been any case of trouble through the practice of written consent?

Mr. CRISSINGER. No, sir; I do not know of any.

Mr. WINGO. If I was acting as the attorney for a bank and the question came up, I would say, "You prepare a notice and send it by registered mail and send a copy of the proposal or set out a specific statement in the notice that the object of this meeting is for the purpose of considering an application for extension of charter under existing law."

Mr. MACGREGOR. Does not this make it easier to control?

Mr. WINGO. By whom?

The CHAIRMAN. The stockholders have had due notice of this meeting; they have to have two-thirds representation.

Mr. MACGREGOR. I know that; but these big corporations send out proxies, etc., and one man usually gets the proxies in his hands and nobody knows in advance whether he has them or not, and the poor unfortunate stockholder has to fall in line.

Mr. CRISSINGER. Nobody has to fall in line.

Mr. WINGO. That is his own fault. If he signs away his rights, he can not complain of the corporation afterwards, and if he attacks it he has to attack it directly. He can not attack it collaterally, and then the comptroller would have something to be sure of, because the minutes of that meeting would be certified showing that they appeared and that two-thirds of them voted for the extension, and there is the record that has got to be set aside by direct proceedings. It can not be attacked collaterally and the comptroller annoyed by it. He has to go into his local court and attack the proceedings for the purpose of correcting a public record of a corporation, or rather the written record of a corporation. My only idea was to prevent any possibility of any friction, and if it did arise, not annoy the comptroller with it, but make the man let his own row be settled in his own stockholders' room, and then let the comptroller have the right to rely under the law upon the certification of the record of the corporation.

Mr. FOWLER. We require certification whether action by shareholders is effected by written consent or by vote. It is a certification under oath by the president or cashier of the action of shareholders.

Mr. WINGO. In either event, I should want that done; but here is where the trouble might come: If he certifies that written consent has been given, it seems to me that you are going to have a stockholders' meeting to authorize that certification.

Mr. FOWLER. No; the directors, by the president or cashier, make that certification. They certify that the stockholders, representing two-thirds of the stock, have given their written consent to extension of charter.

Mr. WINGO. Then if they wanted to attack that record, they would have to attack it in the comptroller's office?

Mr. CRISSINGER. In that event the stockholder who was not agreeable would have his remedy to get out of the bank and get his stock appraised.

Mr. WINGO. My idea was to save all the annoyance to the office here and if they have a row let them have it in their own directors' room.

Mr. CRISSINGER. You would have the row even if you had a vote of two-thirds, and they would still have the right to have their holdings appraised.

Mr. NELSON. Am I clear on this, Mr. Comptroller, that this simply provides an additional way of adjustment to the one we now have?

Mr. CRISSINGER. That is all. You have now the written consent method and this provides for a vote; or that they can do it either way.

Mr. STEVENSON. In other words, the extension can be agreed upon either in the stockholders' meeting after due notice by two-thirds of the stockholders or by the consent of two-thirds of the stockholders in writing?

Mr. CRISSINGER. Yes, sir.

Mr. WINGO. If the purpose was to simply provide an alternative, I would not see any objection to it.

Mr. CRISSINGER. It just gives them a little more leeway.

Mr. WINGO. That is a matter we can decide when we read the bill for amendment. In section 3, as I understand, there are no changes.

Mr. FOWLER. There is a provision in that section that this certificate of the comptroller authorizing the extension of the charter shall be published. That provision begins at line 15, section 3.

Mr. WINGO. In other words, that requires notice to the public that they have had their charter extended?

Mr. FOWLER. Yes.

Mr. STRONG. In what way will the public or anybody else be benefitted by such notice?

Mr. FOWLER. It gives the dissenting shareholders advice of the exact date on which the extension is effective and he has the right within 30 days to give his notice, if he desires to withdraw.

Mr. WINGO. In section 4, are there any changes, and while you are looking to see whether or not there is any change I want to ask the comptroller a question about the proviso in the present existing law which has puzzled me a good deal. It says:

"*Provided, however,* That the jurisdiction for suits hereafter brought by or against any association established under any law providing for national banking associations, except suits between them and the United States or its officers and agents, shall be the same as, and not other than, the jurisdiction for suits by or against banks not organized under any law of the United States which do or might do banking business where such national banking associations may be doing business when such suits may be begun."

Now, I interpret that from a legal standpoint as meaning the jurisdiction of suits that are brought or are hereafter brought by or against any of these associations shall continue the same regardless of the extension, except suits between the national bank association and the United States. Now, what jurisdiction are you going to have in the future. You are providing for the continuance of the same jurisdiction with the exception of a certain class, what provision do you make for that class?

Mr. CRISSINGER. I assume that reservation was made for the purpose of enabling the Congress to provide for jurisdiction in the United States courts rather than the district in which the bank was located and to protect litigants in local courts from removal to Federal courts.

Mr. STEVENSON. That provision, if you will permit me, according to my recollection, is a provision merely that prevents every suit that is brought against a national bank corporation from being taken into United States Courts. It provides that all suits which could not be taken into the United States court if brought against a State bank shall be, in the same way, kept in the State courts, if they are national banks. You know that the United States Supreme Court held away back yonder in those railroad cases that a corporation organized under United States charter had the right to remove a suit into the United States court, and then this proviso was hooked on so that where the United States or any United States officer brings a suit against a national bank, the jurisdiction may be in the United States courts, but that any other suit shall be in the same jurisdiction as if it was brought against a State bank, and my recollection is that that was merely put in there to keep the jurisdiction as to national banks right where it is as to State banks with those exceptions, and I think you will find that correct.

Mr. WINGO. I think that is correct.

Mr. LAWRENCE. That has been in the law since 1882.

Mr. STEVENSON. Yes; and I think it was put on in 1882, because there was an attempt to move these suits into United States courts. Anyway, you are not changing that provision.

Mr. CRISSINGER. No; there is no change in that.

The CHAIRMAN. Is there any change in section 5?

Mr. FOWLER. The only one is the suggestion we are making this morning, giving the comptroller the right to appraise stocks.

The CHAIRMAN. What are the changes proposed in section 6?

Mr. FOWLER. That is a radical change. The present law requires every national bank, on extension of charter, to take out a different design of circulating notes. They can not issue a dollar's worth of their old currency after the bank's charter is extended; this puts them to the expense of providing a new plate and puts the Government to the expense of furnishing all the paper and the work incident to furnishing circulating notes.

Mr. LAWRENCE. I think you are making a very good improvement there.

Mr. FOWLER. Yes; I think so.

The CHAIRMAN. I remember discussing that when we had this bill up originally.

Mr. FOWLER. It has cost the Government for paper alone, I should say, over $500,000, and other expenses incident to it have run the cost up to over $1,500,000, and it is an unnecessary expense to the Government for paper, to say nothing about the expense to the banks for the cost of plates, etc. I think that is a great improvement.

The CHAIRMAN. You would really make a saving there?

Mr. FOWLER. Yes; it would be a saving both to the banks and to the Government.

Mr. LAWRENCE. Is there any objection in the comptroller's office to extending the term beyond 20 years?

Mr. CRISSINGER. No; I would like to see it extended myself.

Mr. LAWRENCE. It seems to me that the term could very well be put at 50 years because it is put at 50 years for most of the State banks.

Mr. CRISSINGER. I think it ought to be perpetual, and the reason it ought to be perpetual is on account of the trust and fiduciary relations, so that banks with fiduciary powers can administer continuing and subsisting trusts.

Mr. LAWRENCE. That is exactly what I was thinking about.

Mr. CRISSINGER. We are losing banks by reason of that fact. Over at Cleveland we have lost our big bank because of the fact you can only incorporate for 20 years. They could not take over the trust relations that are important and which are continuing and subsisting and might last 100 years.

Mr. LAWRENCE. I think there is no good reason why that should not be made at least 50 years.

Mr. CRISSINGER. Why should it not be made perpetual because of the fact——

Mr. LAWRENCE. We have the right to revoke the charter anyway for cause.

Mr. CRISSINGER. They can go into liquidation at any time. The enactment for a perpetual charter would change this whole section under consideration and indeed make it unnecessary.

Mr. FOWLER. And make this legislation unnecessary.

Mr. CRISSINGER. And then the act should provide that all existing banks should have their charters extended with the provision that they might cancel them if they wanted to.

The CHAIRMAN. I would say in that connection, Mr. Comptroller and Mr. Lawrence, that I have before me a copy of a suggested amendment, which is very short and right to the point. This was prepared by Judge Paton, general counsel of the American Bankers Association, who is here with us this morning and who will want to make a statement before us on this special proposition. His proposed amendment as he has it drafted is:

"*Be it enacted, etc.*, That section 5136 of the Revised Statutes is hereby amended so that the paragraph therein designated as section 1 shall read as follows:

"'Second. To have succession until dissolved according to the provisions of its articles of association or the act of its shareholders owning two-thirds of its stock or unless its franchise becomes forfeited by some violation of law.'

"SEC. 2. All acts or parts of acts providing for the extension of the period of succession of national banking associations for twenty years are hereby repealed."

As I understand, if this is put into actual operation, as fast as the present charters expire they would be granted perpetual charters; or would it be necessary to issue new charters?

Mr. CRISSINGER. This could provide for that also.

The CHAIRMAN. It could be made retroactive and effect the National Banking Association so they would not have to go through this process of notifying the department at the expiration of their charters?

Mr. CRISSINGER. That is right.

Mr. WINGO. May I inquire whether it is the intention by the wording of the amendment to put it beyond the control of Congress to revoke the charter?

Mr. CRISSINGER. No, sir.

Mr. WINGO. That language does it, because it provides the only way in which the charter can be forfeited, and under the rule of the inclusion of one means of forfeiture is the exclusion of all other means of forfeiture, you would put it beyond the control of Congress.

Mr. STEVENSON. That could be very easily corrected by the language.

Mr. WINGO. Yes; that could be corrected; but I wanted to know if that was the intention?

Mr. CRISSINGER. It says, "unless it be forfeited by some violation of law." I think your suggestion is all right.

Mr. WINGO. While I personally would be opposed to a perpetual charter, I think you yourself would agree that you ought to provide in that amendment that it might be dissolved by act of Congress.

Mr. CRISSINGER. Congress could terminate the act itself.

Mr. WINGO. In other words you should write into the particular section "unless sooner dissolved by existing law or by action of Congress hereafter taken," and then there ought to be a proviso in there, which I presume will be in this bill because we put it in the Federal reserve act, and I know that we were very careful to do that, that Congress reserves the right to amend or alter this act.

Mr. STEVENSON. That ought to go in anyway, that Congress reserves the right to alter or amend this act, which amendment shall be effective as to all charters granted hereunder.

Mr. WINGO. We had a rather interesting discussion about that and reached practically a unanimous decision at the time that we wrote the Federal reserve act.

Mr. CRISSINGER. I think that ought to go in the act.

Mr. WINGO. Mr. Comptroller, what is the advantage of granting a perpetual charter?

Mr. CRISSINGER. In view of the fact that the national banks have fiduciary powers. They are not permitted, however, to take on continuing and subsisting trusts which may run 100 years. The fact about the matter is we lost one of the biggest banks at Cleveland just for that reason. They could not take over a trust company and so they went under a State charter.

Mr. WINGO. Do you think it is wise for demand deposit commercial banks to become trustees under perpetual trusts?

Mr. CRISSINGER. They are operated under a separate division or department.

The CHAIRMAN. We gave the right to national banks to operate in that capacity.

Mr. WINGO. That is a question of expediency rather than one of principle. It is so foreign to the natural business of a demand deposit commercial bank that you provided for a department for that business.

Mr. CRISSINGER. I would like to say to Congressman Wingo that unless we do something of this kind the national banks are going to become a memory only. Anybody who has been out in California can see the great importance of this amendment and several other amendments that ought to be made to the national bank act. Since the first of the year we have lost $58,000,000 in resources by banks going over to State institutions. This is due to two or three causes; one of them is the amendment you have here under consideration of national banks that want to be in the trust business. The California law permits all State banks to do what they call a department banking business which includes trust relationship, banking and insurance business, and other things of that kind.

Mr. WINGO. Have the California State banks a perpetual charter?

Mr. CRISSINGER. I think all trust companies have. The New York commercial banks have also, so that the national banks are having to get out of the system because they can not meet that competition. I am gathering up the information for California. I want to submit it to the State later on when I get all of it, because if they can do in California what the State banks are doing, it means the annihilation ultimately of the national banking system in that State, and it will spread to other States when they find it can be done.

Mr. FENN. Mr. Comptroller, does not that situation obtain to a certain extent in Connecticut?

Mr. COMPTROLLER. Yes, sir.

Mr. FENN. Very extensively?

Mr. CRISSINGER. Yes, it does obtain also in several States. It seems to me it would be a great misfortune to have the national banking system to be forced out of existence.

Mr. WINGO. Does not that come back to this situation, Mr. Comptroller, that you propose to meet one evil by another?

Mr. CRISSINGER. Would that be meeting an evil?

Mr. WINGO. Of course, in principle there is a very clear distinction between a demand-deposit commercial bank and a trust company.

Mr. CRISSINGER. If they are operated in separate departments that would not affect them, would it?

Mr. WINGO. I think it does. Theoretically it does not, but I think you will agree with me that as a practical every-day experience it does.

Mr. CRISSINGER. I do not believe State institutions have had that complaint. It will not come to that.

Mr. WINGO. If you enter into a competition on the ground of expediency between State banks and national banks, instead of creating a healthy sentiment among bankers themselves and even among State bankers as to the dangers inherent to the fundamental principles of a demand-deposit commercial bank, then you lose sight of your principle.

Mr. CRISSINGER. Is not that a matter of detail to be worked out? Would not that be simply a matter of taking care of many of these points in the act itself?

Mr. WINGO. No; my observation has been that most of the evils that follow from free government come from being governed purely by political expediency; in other words, the competition between two parties for votes has been one of the causes of most of our evils; and instead of both parties adhering to party principles, they want to outbid each other for the votes. Now, you want to outbid the State banks for the business.

Mr. CRISSINGER. No; we do not want to outbid them; we want to be on the same footing, that is all.

The CHAIRMAN. We are in this position now: This committee reported a bill out and we passed it, giving the national banks the right to act in a fiduciary capacity. Now, the practical operation of that law as presented by the national banks is that in many States they are unable to compete with the State banks because the United States will not give the national banks the right to act. In other words, the greatest impediment is the limitation on their charter rights, namely, this extension for only 20 years. For example, in my own State that is the sole impediment. The national banks up there are very keen to have these fiduciary powers and rights, but they find that the people who have charge of the trust companies there under the State laws will not designate nor permit the designation of national banks because of the fact that their charters expire every 20 years.

Mr. WINGO. Did we ever comply with the request that we authorize national banks to do insurance and real estate business?

Mr. CRISSINGER. It is in the Federal reserve act for towns under 5,000.

The CHAIRMAN. This is a serious matter with the member banks of the national banking system of the country to-day. They find that they can not exercise the rights that have been conferred under the law and they are now asking that they be placed in the same position as their competitors, so that they can take the trusts offered to them. Many of their depositors and customers want them to act, but they can not act. It seems to me if our intent was to give them power to act, and if we were not enacting camouflage legislation, as has been suggested, that we should amend the act so as to remove this troublesome feature.

Mr. WINGO. It has been said to be a violation of principle that confronted the national banks. When you once start down the road of expediency, you can readily see where you will go.

Take the State of North Dakota, as an example. There you have a good illustration. Shall we undertake, for instance, to grant every national bank all the powers that the North Dakota Nonpartisan League wanted to use out there? Suppose, for instance, that some State should fall temporarily a victim to a group of men who, thinking alone of their personal interests, attempt to provide State bank charters in such a way that it will be something that everybody will agree is vicious from the standpoint of the banking business; in other words, shall the Congress provide regulations or rules that merely go toward expediency, whether they are wise or unwise?

The CHAIRMAN. The comptroller points out the fact that very keen competition exists. We have to recognize the fact that in this competition the law of the survival of the fittest will prevail. There is no question about that. If the national banks can not meet this competition, they are going to give up their charters. As the comptroller says, they are already doing it, and we all know that they are doing it.

Mr. WINGO. Then, as you say, it will become a question of the survival of the fittest. In 35 years, working on that theory, you would not have a small independent bank in existence; you will have only the great banks and their branches in the United States. You know well the pressure that has been brought here in favor of branch banks. It has been brought by the men who believe that country banks are vicious; that you ought to have the large banks with branches in small communities to destroy the small banks. Every session we have this proposition of the small branch banks. Every argument made in support of this proposition can be made equally well in defense of the other side of the question.

Ultimately some man will come in here and say: "Here, the State bank at San Francisco has seven branches; it has authority to put branches in other States." Now, shall we authorize national banks to establish branch banks ad libitum, not only with reference to number, but with reference to location in the different States? Personally, I do not want to destroy the national banking system, of course. Nor do I want to precipitate a controversy that will have a tendency to destroy them. But I can not help but think that just as sure as you keep on the road to expediency you will reach that point where there will be many thoughtful men who will be very greatly alarmed.

Mr. CRISSINGER. We are either going to have the State branches banking that will crowd out the national banking system in two years or——

Mr. WINGO (interposing). I believe you are sincere in that, and that you really believe it.

Mr. CRISSINGER. I am going to bring you proof of it through every big banker in California. I am not advocating branch banks, but this should be done. If we are not going to have them, then the Federal reserve act should be so amended as to prevent State banks having branches from coming into the system.

Mr. WINGO. But that is a different proposition.

Mr. CRISSINGER. We have got to do one thing or the other.

Mr. WINGO. You believe that, and I appreciate your feelings about it, but a man sat in your place in August, 1913, and predicted that there would not be any national banks in California inside of 10 years, and he thought most of them would be forced out of business in 5 years; and yet 8 years have gone by since then.

Mr. CRISSINGER. But there is one bank now that has 50 branches that we know of, and there is no way to examine them through the Federal reserve system, and they are members of the system right now.

Mr. WINGO. Suppose my State should authorize banks to go into the grocery business, would you be in favor of that?

Mr. CRISSINGER. No, sir; I would not.

Mr. APPLEBY. Mr. Chairman, may I have an opportunity to ask a question?

The CHAIRMAN. Yes; certainly.

Mr. APPLEBY. Coming from New Jersey, I want to say that our State legislature has defeated every branch bank bill that ever came before it. At one time one of our governors vetoed a bill prohibiting branch banking, and they made it inoperative over his veto, both branches of the legislature of the State going emphatically against branch banks in the State of New Jersey. That has been the history of the State for over 20 years, so, you see, we are not in favor of them. When I say "we" I speak of the bankers of New Jersey as being not in favor of branch banks of any kind.

The second point that I have in mind is this, that Federal reserve banks in some sections of the country are allowed to do an insurance business. Isn't that the point under discussion now?

Mr. CRISSINGER. That has been under discussion.

Mr. APPLEBY. The State of New Jersey, in 1893, put through a bill prohibiting trust companies of the State, or State banks, their employees or agents, from becoming agents of fire insurance companies. The banking interests put up a big fight against this bill. My business for 35 years has been real estate and fire insurance. I helped in that fight. We put that in the statute books in opposition to some State banks and trust companies of our State, the law just referred to. A fire insurance agent is placed in a disadvantageous position by having any banking institution, through its employees or agents, suggest to the assured that they take their business away from the fire insurance agent and give such business to the bank, which, in my opinion, is unfair competition.

Mr. CRISSINGER. I have had complaints from your State about it. I could not help it, because the law provided for it.

Mr. APPLEBY. In 1893 that law went into effect.

Mr. WINGO. In some States efforts have been made to check this business. At one time this committee was in a position where only one thing stood between it and throwing the thing wide open. Personally, I think that instead of encouraging this thing, we ought to extend ourselves in the other direction. If we allow these things, the bars will be down.

Some State banks are now authorized to do any kind of business. They are chartered in the same manner as a manufacturing corporation, or as the steel corporation, for instance. They can do any kind of business specified in their articles of incorporation.

In those States there is a growing tendency to cut it down and classify the corporations and have, as most States do have, a separate charter for banks, a separate charter for manufacturing corporations, a separate charter for insurance companies, and so on. That, I think, is the wise thing to do. It is best to study the matter very carefully. Instead of adding to the evils already in existence, we ought to set our faces in the other direction.

Mr. CRISSINGER. I think that Congress should do something to prevent this branch banking business, if national banks are not allowed branches.

The CHAIRMAN. Many of the national banks find themselves in competition with the trust companies that have taken over State banks with branches. For instance, there is the case of the Chatham-Phœnix National Bank in New York. For many years they did not know that they could do that. I think it was in that particular case that the precedent was established. The former comptroller was consulted in regard to it, and he held that they did have the right to take over State institutions with branches. Since that time that has served as notice to other banks and they have been acquiring them.

Mr. STRONG. I want to make the suggestion that the law should be amended to prohibit State banks that have branch banks from being members of the Federal reserve system.

Mr. CRISSINGER. That might stop it.

Mr. STRONG. And we should act upon it.

Mr. FOWLER. In the case of the original Chatham-Phoenix Bank there was a liquidation and one of the State banks, the Century National, was converted. They took over the old Chatham-Phoenix and changed the name back to Chatham-Phoenix. But it was a converted bank that had branches. The original Chatham-Phoenix Bank was liquidated.

The CHAIRMAN. But it was done simultaneously, was it not?

Mr. FOWLER. Yes, it was.

Mr. WINGO. Do you mean to say that by a ruling of the comptroller one of these was permitted to do this and the other was not?

Mr. FOWLER. This State bank was authorized to convert into a national bank and maintain its branches. Any national bank, under the consolidation act, may consolidate with another national bank; and under the act it has all the powers and privileges of the banks forming the consolidation.

Mr. WINGO. Do you recall the date in connection with that?

Mr. FOWLER. Of the consolidation act?

Mr. WINGO. Yes, The committee was not advised that that was the intent.

Mr. FOWLER. That is the law—the act of November 7, 1918.

Mr. WINGO. Then we ought to repeal that law.

Mr. STRONG. Why not amend this bill so as not to permit the renewal of charters to banks that have branch banks?

Mr. WINGO. That is another illustration of what happens when we do something for one purpose given us and later on find that we have served another purpose.

The CHAIRMAN. My judgment is that if you want to stop the growing tendency toward branch banks in the United States, the way to do it is to prohibit the membership of the State banks in the Federal reserve system.

Mr WINGO. I do not agree with the views of the comptroller with respect to the question of driving the banks out of business. I think that with the change in world conditions and the change in the credit conditions, inside to 20 years you will have only one banking system in the United States, and I have a fear of which I can not rid myself that the State banks will be driven out of business; that is, unless we amend the national banking laws so that the small communities will have proper facilities. I am afraid that when that day comes we will amend the national banking laws so that the comptroller will have under his direction what some people refer to as banks, although I do not really think they are. I think you will find that the National banks are more strongly intrenched than the State banks.

Mr. CRISSINGER. I agree with you that national banks are more strongly intrenched.

Mr. WINGO. Practical bankers everywhere say that the Federal reserve system is a success; that it is growing more powerful as time goes on. In spite of the fact that we are entitled to membership, there will be something additional if we have a national charter instead of the State charter. I know of many banks that are contemplating surrendering their State charters.

Mr. CRISSINGER. I suppose those are the State charters where they have a guaranty?

Mr. WINGO. No.

Mr. CRISSINGER. We have a few from those sections.

Mr. WINGO. Ultimately we are going to come down to the practical question of guaranty of deposits. If you follow the line of expediency, every argument that you make in favor of doing these things can be used with equal force in favor of a guaranty of deposits. You may say that there is a State bank doing business in Oklahoma and that that gives the State bank an advantage by a guaranty of deposits, and that, therefore, you ought to have a national law guaranteeing deposits.

Mr. CRISSINGER. That would be inaugurating something that would be unfair and unsafe to well-run banks. However, I have an application on my table this morning from a bank in Texas that is paying 8 per cent this year. It has paid 8 per cent so far I have been told. Of course, that is a pretty good dividend for most banks, but I do not think that it follows that the argument applies to other things of that kind. That is one of the things we would not have to take on, because the more a national bank makes the more secure we feel.

We have one State in the Union where we have only had one failure, whereas there have been 60 failures of State banks.

Mr. STEVENSON. I understand that this discussion arose over the proposition that we should amend the law so as to make the national banks perpetual.

I think there is a marked difference between doing that and providing for the operation of member banks. I think that when you look at that and consider the ability that the comptroller has to require banks to liquidate and consider the powers the Congress has to pass laws that all charters shall terminate whenever the institutions may be found to be abusing their privileges and powers, that it is quite a different matter from giving the right to operate the branches.

Now, the continuity of a banking corporation is a very valuable asset, and it does not give them unusual powers because there is a legal control over it all. It is something that enables them to do business better, provided they remain within the law. I am not prepared to say that I would not vote for an amendment which would make them continue until they are wound up.

The CHAIRMAN. It seems to me, in that connection, that if we do permit the national banks to assume this full responsibility incident to acting in a fiduciary capacity, thus causing a sort of competition with the State banks, we are taking from the national banks the desire to broaden out. The only difference between the two institutions then would be the question of branch banks. The national bank would not have the right to have branches. Trust companies would have the right. Practically all other powers and functions except under special grants under the old charters, such as the operation of sawmills, etc., would be included. They would have all the rights that the State bank charters give. It would strengthen the national banks rather than interfere with them.

Mr. WINGO. Every argument in favor of a perpetual charter to a bank is an argument for a perpetual charter to a corporation.

Mr. CRISSINGER. All corporations in most States have perpetual charters now.

Mr. WINGO. Will you tell me in what place that is provided for?

Mr. CRISSINGER. In almost all.

Mr. WINGO. Formerly it was the case that franchises and charters used to run for 20 and 50 years. Isn't there a tendency now to cut them down?

The CHAIRMAN. Not in my State. In fact, there is a tendency the other way.

Mr. STEVENSON. They are all subject to legislative acts.

Mr. APPLEBY. Is this a fair suggestion? Wherever national banks of the various States find State banks and trust companies of that particular State are empowered with broader actions or functions than the national banks, should not these national banks be put on a par with those particular State banks or trust companies?

The CHAIRMAN. I think that would be a grave mistake, because we must look at the thing in a national way and not as affecting one State alone.

Mr. STRONG. Then the thing to do would be to change the law of the States so as to permit these things to be done.

Mr. WINGO. Then they would say they granted a perpetual charter in South Carolina and it should be done some place else. In other words, you then take the judgment of the State legislature and not the judgment of the Congress. While I am a great believer in State rights, I do not believe the judgment of the State ought to prevail in Federal matters. While I do not believe that the judgment of Congress ought to control State legislation, I am a firm believer in this, that the judgment of Congress should not be dependent upon the action of a State legislature. In other words, Congress should be guided by principle alone and by what is safe and wise, and not by the question of expediency, which may be dependent upon chance or the whim of some State legislature.

Mr. CRISSINGER. You will agree, I suppose, that these trusts can not be operated without a charter longer than 20 years?

Mr. WINGO. The trouble is, Mr. Comptroller, that I can not follow you in your argument, because I can not conceive of a demand deposit commercial banking organization acting as a trustee.

Mr. CRISSINGER. But Congress has given that power.

Mr. WINGO. But because we have made one mistake need not mean that we must make another. We do not have to continue along the same lines.

Mr. CRISSINGER. I do not think you have made a mistake.

The CHAIRMAN. What are we losing by giving the banks the right to have perpetual charters?

Mr. WINGO. We are making it a perpetual thing and giving more power.

The CHAIRMAN. What harm is there in doing that?

Mr. WINGO. It is the harm of giving anything that is purely artificial a power that is greater than that which is natural. In other words, you make a corporate entity without soul and without moral restraint superior in its power to the natural man who is competing with that corporate entity.

The CHAIRMAN. In that connection, we have with us Judge Paton, who has given considerable attention to that subject. He is prepared to make a statement, and I suggest that it would be well to hear him now.

STATEMENT OF MR. THOMAS B. PATON, GENERAL COUNSEL AMERICAN BANKERS ASSOCIATION.

Mr. PATON. I would like to say that at the last convention of the American Bankers Association in Los Angles, Calif., they went on record in favor of doing away with the 20-year limitation of life of national banks and provided that the national banks should have the same period of existence as is generally accorded banks and corporations in the different States, namely, that once created they should continue until dissolved by act or law, or until the charter is repealed by the legislature.

The chief reason was that national banks now having been given trust powers by Congress, they can not successfully compete in that class of business with State organized institutions, owing to the doubt as to the legality of a trust executed by a corporation of only 20 years' life where the trust is for a longer term.

That may be sound in law, or it may not be; I shall not attempt to argue that question. But the practical effect is, as the Comptroller of the Currency has told you, that it causes some national banks who want to exercise the powers of trust companies to go out of the system and take out State charters where there is no question as to eligibility to exercise long-term trusts. And it also, as I understand it, prevents conversion of trust companies exercising trusts into national banks.

The suggestion was made here by the gentleman from Arkansas that this matter of expediency, this granting of trust powers to national banks, might lead to a great deal of trouble. Just consider for a moment that the tendency has been for financial institutions to exercise powers in connection with three classes of business—commercial banks, savings banks, and trust companies. In the State of California, as an example, the banking law provides that one corporation exercises all those or not all those functions. It seems to be the modern tendency or evolution that, instead of having separate institutions, such as a separate savings bank, a separate trust company, or a separate commercial bank, each exercising its separate functions, to have one institution exercising them all; and it does not seem that where a State bank exercises all those functions it is really going far afield, considering the functions of the national bank, that it also should be given power to exercise trusts as well as to take care of savings and do commercial banking.

Of course, in those cases where the national bank has been given power to act as an insurance agent, in certain localities, I think that is going rather far out of the field of banking, but this question of the right to exercise trust functions, it seems to me, is entirely separate from the question whether they should have branches. One is the question of the form of their organization, the other is the functions they may be authorized to execute.

I simply want to say that our association is on record as favoring the amendment to the national bank act, which would do away with the necessity for this bill (6776) by simply striking out the provision as provided in the amendment which I sent to your chairman, Mr. McFadden. The proposition is to amend section 5136 of the Revised Statutes, which now reads:

"To have succession for the period of 20 years from its organization, unless it is sooner dissolved according to the provision of its articles for association, or by the act of its shareholders voting two-thirds of its stock, or unless its franchise becomes forfeited by some violation of law."

The amendment is simply to strike out the words "To have succession for the period of 20 years from its organization unless it is sooner," so as to have it read "To have succession until it is dissolved according to the provisions of its articles for association," and so on.

The gentleman from Arkansas has made the suggestion that we do not provide any power in the National Government to repeal the charter or to put the national bank out of existence. If there is nothing of that kind in the national bank act, of course it should be in, although Congress has undoubtedly the power, not only to amend, but to repeal charters of national banks.

You will recall, I think, the old Darthmouth College case, in which it was successfully contended by Daniel Webster and afterwards sustained by the Supreme Court, that the charter granted by a State was a contract and that the State could not repeal that charter as it would be impairing the law and impairing the obligation of contracts. So that following that case, it has been usual and universal in all State corporation laws to provide a special reservation for the right to repeal or amend. As to the national banking act, if such a provision is not now in it, it could be, of course, readily inserted. There is no limitation on Congress to prevent or impair the obligations of a contract, the same as upon a State.

The CHAIRMAN. The only change your amendment makes in the law is to strike out the 20 years, is it not?

Mr. PATON. That is all. Consider this proposition. Take the State of New York as an example. They grant a charter to a bank and it is continuous. They give it a grant for life. It is continuous. There is no talk about perpetual succession. There are some corporations there 100 years old.

When this act was framed, in 1863, it was a new experiment in banking. But the experiment proved a success. Now you have an enduring system. Why keep on every 20 years having this rigamarole and saying that you have to renew the charters? Why not strike out these words?

Mr. WINGO. That is the favorite argument in favor of autocracy. Why do we require Congressmen to go back for election every two years? You recognize the practical difference between taking a charter subject to revocation and a charter that automatically expires at a certain date unless Congress, by act, give the privilege of extension. Suppose you were to make it a special act? You would have one in 1921, another in 1922, and still another at another date. Then say that Congress should wish to exercise its judgment in connection with the question. Suppose that it sought to do that. Suppose that the bank charters should have this 20-year limitation. You would have the charters of the bank all scattered, so far as the dates are concerned. If they wanted to put in a limitation, you would have considerable confusion growing out of the length of the different charters.

Mr. CRISSINGER. But you have that now.

Mr. WINGO. I know, but the Congress now has the right at all times to undertake to say, through the general statutes, that you will automatically have to be confronted at the end of the 20-year period, but under that proposition you would be dealing with a change that would apply to the whole system—some at one time and some at another time—whereas now we are providing by general statute for any period that a charter might apply. If you pass an act 15 years from now, say, and simply undertake to make a change in the banking system in the United States, it would apply to all banks. This proposition applies, but it does not apply at the same time. It is a question of difference of dates.

Mr. PATON. Would not the same argument apply to State legislatures?

Mr. WINGO. Yes; and it ought to.

Mr. PATON. In your State does the law provide for a State bank without any limitation as to the time it shall live?

Mr. WINGO. I do not recall. I know this much with reference to corporations——

Mr. PATON (interposing). Can't a corporation live only so long?

Mr. WINGO. My recollection is that we have a specific limitation, but I would not undertake to say. I have not kept up with it. But because corporations may temporarily get a thing in one State is no justification for Congress throwing up its hands and saying "We will surrender."

The argument that you make, that you can authorize them to do a particular character of business which branch banks——

Mr. PATON (interposing). I do not argue that.

Mr. WINGO. When you bring that back to its original purpose you find that it will not work. You know that the trust business is not primarily the function of the commercial banks.

Mr. PATON. No; I think not.

Mr. WINGO. I think it is a poor argument that because we have done something once we must continue to do it.

Mr. CRISSINGER. You are arguing that it is wrong.

Mr. WINGO. I know that I am. Don't we require that they shall be kept separate and distinct as far as business is concerned? We recognize that distinction in the law.

Mr. CRISSINGER. But that does not make them unsafe.

Mr. WINGO. Well, it has a great deal to do with the man who wants to be sure that the bank is going to be able to turn his money back. It is a proposition that is always in the public mind. The one feature is interwoven with the other.

Mr. CRISSINGER. It may be in the public mind, but it is not so really.

Mr. WINGO. No; that may be so, but I say it is in the public mind.

Mr. FOWLER. Commercial banks are exercising these privileges.

Mr. WINGO. It makes a difference in the public mind as to whether a commercial bank is purely that. It makes a difference to a man whether his bank is apt to give him his money on his own demand. My contention is that every time you add new business to a bank, even though under a distinct segregation, you add a load. You add another danger, another risk, and that is very apparent in the minds of a great many depositors.

Mr. LAWRENCE. I would like to ask a question. If the banks are not allowed to exercise these powers the same as State banks, are not a great many of the national banks likely to surrender their charters and thereby weaken the Federal Reserve System?

Mr. FOWLER. Of course they can become members of the Federal Reserve System.

Mr. LAWRENCE. But the fact is there are very few.

Mr. CRISSINGER. There are 8,178 national banks and only about 1,595 State institutions in the system. A great many of the State institutions stay out because of some disadvantages in having to do things that the Federal reserve system requires to be done.

The CHAIRMAN. Where a national bank wants to assume this power it has to get the approval of the Federal reserve system, does it not?

Mr. FOWLER. Yes.

The CHAIRMAN. Do you know how many of them have national privileges under the law?

Mr. FOWLER. I understand about 1,390.

Mr. STEVENSON. To go back to the question of perpetual charters, of course it sounds bad. Say, for instance, that a bank takes out a charter, subject, of course, to termination by the comptroller. I think there is a much stronger argument for that in connection with these trust activities. I think the argument is continuity of organization. You have a bank, for instance, that is chartered and has been running 15 years. At the end of 5 years you are going to get an extension involving the consent of two-thirds and the freezing out of the other stockholders.

It involves the exercise practically of the right of eminent domain on the minority stockholders' stock if they do not want to go in. It disorganizes the whole organization of banking and its continuity of existence, and you are going to lose. You create an active enemy in the institution by every fellow you have to take out, and then you break the continuity of the existence of the concern; and I think that is the ground upon which the charter should be made continuous.

Mr. APPLEBY. May I ask a question?

The CHAIRMAN. Certainly.

Mr. APPLEBY. The national banks used to be prohibited from taking mortgages on real estate in the name of the banks.

The CHAIRMAN. It is limited. They have certain rights.

Mr. APPLEBY. The trust company is supposed to take many more mortgages than a bank?

The CHAIRMAN. In actual practice they do.

Mr. APPLEBY. In other words, the more limited charter the national bank has the more its assets can be tied up for a longer term.

The CHAIRMAN. Oh, no.

Mr. APPLEBY. I do not know. I have watched it. I have been a banker for thirty odd years. I know that our State banks are prohibited from taking mortgages in the name of the bank unless it is for a debt that they can not get away from. A trust company, on the other hand, makes a bid for that mortgage business in our particular community.

The CHAIRMAN. I thought you were speaking particularly of national banks.

Mr. APPLEBY. I happened to speak of the State banks and asked the question whether the National bank was on the same basis as the State bank. The trust company in our particular locality ties up a great deal of money on bonds and mortgages. It bids for them.

Mr. FENN. Don't they loan trust funds in that way?

Mr. APPLEBY. All funds.

The point I make is this: Are the State banks and the National banks on the same basis as trust companies, and don't they have their assets tied up much more than they originally did?

Mr. CRISSINGER. Absolutely not. The trust department funds are invested entirely separately from the national-bank funds. It is simply a department in the bank.

Mr. FENN. The trust company of a national bank?

Mr. CRISSINGER. Yes; it is simply a department, a separate department.

Mr. STRONG. We have been talking here about objections to perpetual charters. We are considering a bill for renewing the present 20-year charter to banks. What advantage accrues to the Nation or to the financial system of the country if we give them the right to extend their charters every 20 years. How is anybody benefited by the fact that the charters are to be extended? If there is not any benefit, why is there any objection to a continuous charter? They now run for 20 years. Then they have to come to Congress and have their charters renewed. They have come twice; they will have to come again. What benefit is there to be derived from that? It seems to me that a continuous charter would be of advantage, because it would not create any doubt in the mind of investors as to what the Congress was going to do. If there is any advantage to be gained by this system of renewals every 20 years, I would like to hear about it. If there is no advantage to be gained, I do not see the necessity for it.

Mr. FOWLER. It gives the comptroller a chance to clean house every 20 years.

Mr. STRONG. If the comptroller does not make the banks clean house more than once in 20 years, there is something the matter with the comptroller.

Mr. CRISSINGER. You are right about that.

The CHAIRMAN. The law supposes that the comptroller will see that the banks clean house more frequently than that.

Mr. LUCE. Mr. Chairman, may I make one suggestion? The House will soon be in session and there will probably be a call. May I suggest that we put into the record the technical changes proposed in connection with bill 4905, before we are interrupted?

Mr. STRONG. Are there any further changes in H. R. 6776?

The CHAIRMAN. That was the one permitting State banks and trust companies to consolidate?

Mr. LUCE. I thought that we had better get information in regard to them.

Mr. FENN. Does that include trust companies as well as State banks?

The CHAIRMAN. It applies to any banks that are concerned here.

Just for the moment, and in order to get the record clear, Mr. Crissinger hands me a letter——

Mr. FENN (interposing). If the national banks are going to have trust powers, why should they not have power to absorb the trust companies?

Mr. LAWRENCE. That might give them power to take over trust companies.

The CHAIRMAN. Mr. Crissinger has handed me a letter which presents his views on this point. I will read it for the record:

"I am inclosing H. R. 4905 with the suggestion that it be amended in the following manner:

"On page 2, in line 11, after the word 'meeting' insert the words 'unless such notices are unanimously waived.' On page 2, line 22, insert after the word 'receive' the words 'from the consolidated association.' On page 2, line 25, after the word 'directors' insert the words 'of the consolidated association.' On page 3, line 6, before the word 'bank' insert the word 'consolidated.' On page 3, line 10, before the word 'bank' insert the word 'consolidated.' On page 3, after the word 'sold' at the end of line 11, insert the words 'at private sale at not less than the appraised value or.'

"Strike out all of section 3, on page 4, and insert a new section 3, as submitted herewith.

"The reasons for the proposed changes are as follows: It frequently happens that all the shareholders of the banks proposing to consolidate desire prompt action to be taken and there is no provision in existing law authorizing the waiving of notices and it is believed that this should be authorized.

"The provision in the existing law authorizing a dissenting shareholder to have his shares appraised and the value of them paid to him does not provide that the payment shall be made by the consolidated association, and it is believed that this should be provided for. The present law requires the shares of stock taken over from the dissenting shareholders to be sold at public auction, and it is believed that the bank should be authorized to sell such stock at private sale if they can procure a price not less than the appraised value.

"Section 3, while authorizing a State bank to consolidate with a national bank, does not go into any of the particulars of the consolidation. The new section has been drawn up to conform with the provisions in section 2 of the act. It is provided, however, that the national bank can not take over any powers of the State bank which are not by law conferred upon national banks."

As I understand from my talk with Mr. Fowler, it just straightens out the case and permits the orderly consolidation of these banks into the system.

Mr. FOWLER. That is all.

The CHAIRMAN. He has been careful to avoid any new duty or anything that would be objectionable, or anything else, except to permit the more orderly taking over of these institutions.

Mr. STEVENSON. There is one thing that has suggested itself to me in connection with dissenting stockholders. Suppose they put it up for $150 and it sells for $175, who gets the surplus? It looks as if the dissenting stockholder should get it. There is a question of proper appraisal there. It seems that it might be said that the appraisal is not fair. It looks as if the dissenting stockholder had been done an injustice, and that he did not get the benefit of the sale. That is in the law as it is now. You are leaving the law as it is now, but when we passed that act we never thought of that view of it.

Mr. CRISSINGER. Those are suggestions.

The CHAIRMAN. Have you further suggestions?

Mr. FOWLER. It seems to me it is a wise measure in view of the fact that State banks will be able to get into the system in a new way. They may now convert, and after

conversion into a national bank there may be a consolidation with an existing national bank. This section provides for direct consolidation of a State bank with a national bank.

Mr. STEVENSON. I want to ask this question: I do not exactly agree with the statement that this would absorb the trust companies. Section 3 reads:

"* * * any bank incorporated by special or general law of any State, having an unimpaired capital sufficient to enable it to become a national banking institution may, with the approval of the Comptroller of the Currency, be consolidated with any national banking corporation located within the same county, city, town, or village under the charter of such national banking association."

Mr. FOWLER. We make it read that any State bank, savings bank, or trust company——

Mr. STEVENSON. Oh, that is in the amendment, is it?

Mr. FOWLER. Yes.

Mr. CRISSINGER. In other words, we want to make them do directly what has been done indirectly. It does away with a great deal of work.

Mr. MACGREGOR. It would not meet Mr. Strong's objection with reference to taking over State associations with a large number of branch banks.

Mr. STRONG. This does not provide for consolidation of State banks with national banks.

Mr. CRISSINGER. Oh, yes; we can do that now. The only thing we are asking for is that it be done directly.

Mr. STRONG. National banks with State banks?

Mr. CRISSINGER. Yes. We take them over right along. They get themselves incorporated as national banks, and then two national banks consolidate.

Mr. STRONG. Do you permit State banks and national banks to consolidate now?

Mr. CRISSINGER. The way they do is to purchase. Whenever they consolidate they take the branches in.

Mr. STRONG. There ought to be a law to prohibit the consolidation of State and national banks when they have branch banks.

The CHAIRMAN. Are there any more questions that you want to propound to any of these gentlemen? If not, Mr. McKee, president of the National Capital Bank of this city and the chairman of the committee on Federal legislation, national bank division, American Bankers Association, is here. He would like to make a short statement.

STATEMENT OF MR. HENRY H. M'KEE, PRESIDENT NATIONAL CAPITAL BANK, WASHINGTON, D. C., CHAIRMAN COMMITTEE ON FEDERAL LEGISLATION, NATIONAL BANK DIVISION, AMERICAN BANKERS ASSOCIATION.

Mr. MCKEE. I represent the national bank division, American Bankers Association. We have four divisions, and I represent the national bank division. I would like to say just a few words.

I have been an officer of the national bank division of the American Bankers Association for three years. I have been intimately in contact, through correspondence and personally, with a large number of the members of our division and I know their attitude toward the questions you are discussing. I know that in the evolution of banking that is going on now the national banks are fighting for their existence in competition with State-chartered institutions.

During the period June 30, 1920, to March 21, 1921, charters were granted to 780 State banks, and from June 30, 1920, to February 21, 1921, almost the same period, to only 40 national banks, so almost twenty times as many State banks came into existence in that period as national banks.

Mr. STEVENSON. What was the relative amount of capital invested in those banks?

Mr. MCKEE. I am afraid that I shall not be able to give those figures.

Mr. STEVENSON. There were probably a lot of little $5,000 tollgates that will go out of existence.

Mr. MCKEE. I will state that the capital of the State banks—the surplus and undivided profits, as reported by the State bank commissioners, on June 30, 1920, were $3,341,000,000, and in March, 1921, $3,587,000,000, so that there has been an increase in capital and surplus of $246,000,000, while the increase in capital, surplus, and undivided profits of the national banks for the same period was about $111,000,000. That will give you a fair idea of the relative strength of the two classes of institutions.

Mr. DUNBAR. What are the capital resources of the national banks?

Mr. MCKEE. The resources of all the national banks, that is, the total resources, as of February 21, 1921, were $20,207,000,000.

Mr. DUNBAR. Six times more capital resources invested in national banks than in State banks?

Mr. McKEE. I am reading the total resources of the national banks.

Mr. DUNBAR. What about the State banks?

Mr. McKEE. Now you want the total resources of the State banks?

Mr. DUNBAR. Yes; the same thing.

Mr. McKEE. The total resources of the State banks as of March, 1921, were $29,191,455,000, or in excess of——

The CHAIRMAN. How many banks?

Mr. McKEE. Twenty-two thousand State banks and 8,000 National banks, or almost three times as many State banks as National banks.

Mr. STEVENSON. And the resources of the State banks are what?

Mr. McKEE. Are $9,000,000,000 in excess of the resources of the national banks.

Mr. STRONG. One reason for that is that there are so many more State banks.

Mr. McKEE. You can start a national bank in some jurisdictions with $25,000.

Mr. STRONG. I know you can, but you can get a State bank for $5,000 or $10,000.

Mr. McKEE. Yes; that is true.

Mr. STRONG. Consequently they can start in every little town.

Mr. McKEE. The general impression is that the State chartered institution has more latitude to supply the banking needs of the public than the national banking institution.

Mr. STRONG. It has been the custom in my State whenever a State bank commissioner refuses a State charter the disturbing element comes to Washington to get a national bank charter, or it was at least up to a year ago. Then after securing the right to a national bank charter they used it to induce the State commissioner to issue a State charter.

Mr. STEVENSON. It is just the other way around with us. The Comptroller of the Currency has exercised pretty wide discretion in my State and is shutting off banks where there is a State bank, and no new one needed, and then they go and get the State charter for another State bank.

Mr. STRONG. I had in my district a town with less than 300 people where there was already a bank of $20,000 capital and the State bank commissioner refused to issue another State bank charter. They came to Washington and got a national charter. Then they went back and said, "We have a national charter. You had better give us a State charter." And they got it.

Mr. McKEE. I would like to say a few words with reference to this bill under discussion (H. R. 6776).

It has been brought to my attention by bankers in Ohio who have the right to exercise trust functions under the provisions of the Federal reserve act that they are handicapped in carrying out the functions of a trust company by reason of the fact that their charter is limited to 20 years and the fact that charters for trust companies in the State of Ohio are perpetual, and they find the people taking their business to banks with perpetual charters. So there is a demand on the part of national bankers in this country to be put on an equal basis with trust companies, so that they can compete with those State chartered institutions in carrying out trust company functions under the Federal reserve act.

The CHAIRMAN. Do you consider that there is a demand from the national banks for a perpetual charter?

Mr. McKEE. I do; yes, sir.

The CHAIRMAN. And you are speaking as a representative of the national banks in that respect and are advocating it for the national banks?

Mr. McKEE. I am.

Mr. STRONG. Of course every banker would prefer a perpetual charter.

Mr. McKEE. There is no objection to it. It is of great advantage. There would be objection to granting a manufacturing concern a perpetual charter, for the reason that such a concern is not controlled or supervised by State or governmental authority. National banks are under the supervision of the Comptroller of the Currency, and if they do not behave he has it in his power to revoke their charters.

The CHAIRMAN. You feel, as I understand it, that the national banks are being discriminated against by not having that kind of a charter?

Mr. McKEE. That is it exactly.

The CHAIRMAN. That is the practical working out of the situation.

Mr. McKEE. Yes.

The CHAIRMAN. And you see no objection to amending the law so that banks having branch banks could now come into the system?

Mr. McKEE. I see no objection. I think the same privileges should be granted to the national banks as are now enjoyed by State banks.

The CHAIRMAN. You are in favor of branch banks?

Mr. McKEE. Yes; I am in favor of them.

The CHAIRMAN. You realize that if the act goes into effect it has a tendency to open the door; that immediately every banker may go to the legislature and say, "You pass this law."

Mr. McKEE. That may be true. If this is an economic evil, it should be stopped in those States where it is practiced.

I may say in this connection that a high official in the State bank division, whose bank has seven or eight branches, is one of the strongest opponents to national banks being granted the same rights as his bank enjoys. Such interests are selfish. They want to compete unfairly.

Mr. STRONG. I am opposed to the branch banking proposition. I wonder why it would not be a good thing to pass a law providing that banks having branch banks should not be members of the Federal reserve system.

Mr. CRISSINGER. I know a lot of strong banks that are out.

Mr. STRONG. Branch banks should not have the advantage of the Federal reserve system.

The CHAIRMAN. The national banks of the country are carrying responsibilities and burdens for all banks. Is it fair that the national banks should carry all this burden and not have equal advantages?

Mr. McKEE. No, sir; it is not.

The CHAIRMAN. Then there are expenses incurred in many ways. For instance, there is the expense of providing a circulating medium

Mr. STEVENSON. Is it fair that State banks should become member banks of the Federal reserve system and get all the advantages from it and should be given the right to get all those advantages and still have branch banks that are denied them under Federal charter?

The CHAIRMAN. That is the vital point.

Mr. McKEE. May I read this resolution that we adopted at our meeting in Los Angeles?

The CHAIRMAN. Yes.

Mr. McKEE. It reads:

RESOLUTIONS OF NATIONAL BANK DIVISION, AMERICAN BANKERS' ASSOCIATION, OCTOBER, 1921.

Whereas, the banking business of this country in order to take care of the ever-increasing demands of commerce and to encourage thrift amongst all classes has resulted in the establishment of branches by the State chartered institutions in many sections of the country; and

Whereas, national banks are not permitted to establish or originate branches, but may acquire banks with branches already established and, by conversion, operate them as branches; and

Whereas, the advantage the State banks have in the matter of development of their business through the establishment of branches and by the facilities offered by membership in the Federal reserve system, there is grave danger that the national banking system will be disrupted or superseded by the State chartered institutions; and

Whereas, it is the opinion of the members of the national bank division of the American Bankers' Association that the national banking system has for more than 50 years fully justified its existence, and that it is the duty of Congress to so amend the national bank act from time to time as will enable national banks to meet the needs of business and to reasonably meet the competition of the State chartered institutions; and

Whereas, it is further the opinion of the members of the national bank division that branch banking as practiced in certain foreign countries is not for the best interests of all the people of the United States, but it would be entirely practicable and safe for national banks to manage and maintain branches within the corporate limits of the cities in which their head offices are located; therefore be it

Resolved, That the national bank division of the American Bankers' Association requests the Congress of the United States to so amend the national bank act as to permit the national banks to maintain and operate branches within the corporate limits of the cities in which the head offices of such national banks are located, to be confined, however, to States in which State chartered institutions are authorized to have branches, provided the minimum capital of each parent bank shall be not less than that required under the national bank act were each branch and the head office separate institutions, and with such other restrictions and limitations as may be found expedient after a careful study of the situation by the banking committees of Congress.

Mr. STRONG. I have heard it stated that when that resolution was passed there was not a very large membership on the floor; is that true?

Mr. MCKEE. I was not there. I have not heard the details

Mr. STRONG. Do you know whether it is true or not?

Mr. MCKEE. I do not know whether it is true.

Mr. STEVENSON. This committee reported that same measure two or three years ago. I believe it passed.

The CHAIRMAN. No; it did not get out of the committee.

Mr. STEVENSON. It was limited to cities of not less than——

The CHAIRMAN (interposing). We had two or three plans under discussion and before we decided on any one of them it was voted down in the committee. Mr. Strong was present in the committee, I remember, and I think he will remember it, too.

Mr. STRONG. Here is the point: Branch banking starts to build up a monopoly. You have, for instance, a little bank in a community in a city in which you spent years in building it up, and then the branch of some big bank starts business in a "hole in the wall" next to you and says to your best customer, "Here, you can not get large loans in this little bank, but if you will come to us, having unlimited resources through our branch-bank connections, we will let you have all the money you want." They thus destroy the small bank and create a monopoly. I am against a monopoly in banking which controls the credits of the people.

The CHAIRMAN. Among other dangers pointed out is that it establishes a precedent, and if it is once established, as has been suggested, it will follow that later on it will be extended, and the big bank will reach out and take the business.

Mr. STRONG. It is a question of "getting the nose of the camel under the tent" on the part of the branch-bank advocates. You know if a camel gets his nose under the tent once the "hump" is soon inside.

Mr. CRISSINGER. We have a case in the city of New York now where they run one of these armored boats around the island to gather up deposits. We have that also in Boston. If they are going to do this kind of things, it seems to me it would be better to have places for it rather than to go out with an automobile to gather up the deposits. New York is a big place. It is as big as one of your counties., I suppose. These people have a perfect right to do business with the bank of their selection. There is every reason in the world why we should do something to strengthen the national banking system in these cities.

Mr. STRONG. I am willing to do anything on earth to strengthen the national bank system, but I do not intend to permit a system of branch banking if I can help it.

Mr. CRISSINGER. I want to give you another illustration: Chicago, for instance, has 178 banks, 26 of which are national banks.

Mr. STRONG. But a lot of those banks are out in communities where they do not need large banks.

Mr. CRISSINGER. I do not think there is a bank with a capital smaller than we could grant up there.

Take Cincinnati as another illustration. We are going to lose one of the biggest banks in our system unless we can permit its charter to be continued indefinitely; and we are going to lose not only there but in the city of Philadelphia. We will lose two big banks there. I am interested in perpetuating the national banking system. Personally I think it is a blessing to the country, and it would be a great catastrophe if Congress should permit it to be weakened for want of encouraging legislation.

Mr. STRONG. I want to say that I am inclined to go with you on the continuous-charter proposition, but I do not want to have the branch bank business get a foothold in this county.

Mr. CRISSINGER. When the branch bank bill comes up I want to say something about that. From the little knowledge I have of the situation out in California, I am inclined to think that it is going to make the situation, so far as the State institution is concerned, such that it can not be handled.

Mr. NELSON. Do I understand, Mr. Comptroller, that your statement as to California applies to banks that are members of the Federal reserve system?

Mr. CRISSINGER. One bank has 50 branches. Ten branches will be before us in a few days, I understand. It takes two people usually to start an examination. In some banks it takes 10 to start an examination.

Mr. NELSON. Then, is not branch banking really a bad banking proposition?

Mr. CRISSINGER. I think that we would have to amend the laws materially in order to handle a general system of branch banking such as they have in Canada. I would not be in favor of that kind of a system.

Mr. STRONG. I am glad to hear you say that.

Mr. CRISSINGER. But I am in favor of this thing that the bankers have asked at the California convention, because we are up against it every day. It comes to our office every day that they are doing things that they are not authorized by law to do. Yet they are only doing things which they have to do in order to meet competition.

Mr. DUNBAR. Any State bank with branch bank members of the Federal reserve system is subject to examination by the Federal reserve system?

Mr. CRISSINGER. That is correct.

But consider for a moment one banking system in California, with $200,000,000 of resources, with 50 branches. The Federal reserve system out there has six or seven examiners. How are you going to examine the banks? The State of California has only five examiners.

Mr. DUNBAR. Then the difficulty is that a State bank, with a large number of branches, can not be investigated for the reason that you do not have sufficient examiners?

Mr. CRISSINGER. I think it is coming to that. This bank of Italy, for instance, would take 100 bank examiners. It would take all the examiners from three districts to make that examination.

Mr. DUNBAR. You say, then, that you can not examine because you do not have enough examiners?

Mr. CRISSINGER. Yes.

Mr. DUNBAR. If there is a State bank with 50 branches, isn't that bank the owner of the 50 banks? Why can not you examine it?

Mr. CRISSINGER. We have got to change the banking system if we do that, because you can not maintain a system or maintain a body of men sufficient to examine those banks. It will take 50 examiners to start with.

Mr. STRONG. But you have the right?

Mr. CRISSINGER. Oh, we have the right.

Mr. STRONG. You have to have an examiner at each branch?

Mr. CRISSINGER. Yes; an examiner at each branch.

The CHAIRMAN. It is entirely a new situation.

Mr. CRISSINGER. There are a lot of people who think that we should embark on a system like that of Canada.

Mr. STRONG. The big bankers?

Mr. CRISSINGER. No; a lot of little bankers out in California, for the reason that there is a diversified country out there, with their fruit interests requiring great resources.

Mr. DUNBAR. Now, here is a bank, we will say, with 50 branch banks. You say that it takes 50 examiners to start with?

Mr. CRISSINGER. Yes, sir.

Mr. DUNBAR. Isn't the parent bank the owner?

Mr. CRISSINGER. Yes.

Mr. DUNBAR. Why can not the parent bank alone be examined?

Mr. CRISSINGER. Because the funds and resources are scattered all over the State.

Mr. NELSON. And the assets are also scattered.

Mr. CRISSINGER. Yes.

Mr. DUNBAR. Doesn't the parent bank own them all?

Mr. MCKEE. I think I can explain that. Suppose there should be a defalcation in one of the branches. Suppose a man in another one of the branches is implicated with the one in which there is a defalcation, and they begin to transfer the assets from one to the other. There would be no way of catching it. It is necessary to start the examination in each bank and stay there throughout the examination.

Mr. DUNBAR. It is absolutely necessary to have one examination of the State bank and its branches and on the same date.

Mr. MCKEE. Yes; it is.

The Chairman. Gentlemen of the committee, these gentlemen have been very lenient with us and have given us a great deal of their time. Unless there are some questions that members of the committee desire to ask, I suggest that the committee adjourn at this time.

(Thereupon, at 1 o'clock p. m., the committee adjourned.)

END OF
TITLE